

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

DOCKETED  
OCT 15 2001

WILLIA BROWN,

Plaintiff(s),

vs.

BURNHAM POLICE OFFICER  
KWIAKOWSKI, Star No. 76 Individually  
and as agent, servant and/or employee of  
BURNHAM POLICE DEPARTMENT, and  
VILLAGE OF BURNHAM, a Body Politic  
and Corporate,

Defendant(s).

NO. **01C 7914**

JUDGE PLUNKETT

MAGISTRATE JUDGE MASON

**COMPLAINT**

**COUNT I**

**SECTION 1983 CLAIM – EXCESSIVE FORCE**

NOW COMES the Plaintiff, WILLIA BROWN, by and through LAW OFFICES OF STEVEN J. MALMAN & ASSOCIATES, P.C., and complaining of the Defendants, BURNHAM POLICE OFFICER KWIAKOWSKI, Star No. 76 Individually and as agent, servant and/or employee of BURNHAM POLICE DEPARTMENT, and VILLAGE OF BURNHAM, a Body Politic and Corporate, states as follows:

1. That this action arises under Section 1983 and 1988 of the Civil Right Act, to-wit: 42 U.S.C., Sections 1983 and 1988 and the jurisdiction of this Court is based upon 28 U.S.C., Sections 1331 and 1343.

2. That on or about December 18, 2000, and for a long time prior thereto, the Defendants, BURNHAM POLICE OFFICER KWIAKOWSKI, Star No. 76, was employed

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U.S. DISTRICT COURT

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as a Village of Burnham Police Officer, within the scope of his employment and under the color of state law.

3. On or about December 18, 2000, WILLIA BROWN, (hereinafter "Plaintiff"), was lawfully an invitee at a premises commonly known at the Little Brown Jug Tavern located at 14540 Torrence Avenue in the Village of Burnham, County of Cook, State of Illinois.

4. That Plaintiff, while inside the aforementioned location, was assaulted and battered without any reason or provocation by the Defendant, BURNHAM POLICE OFFICER KWIAKOWSKI, Star No. 76, specifically, when said Defendants threw Plaintiff to the ground and kicked Plaintiff about her body, face and neck.

5. That said Defendant, BURNHAM POLICE OFFICER KWIAKOWSKI, Star No. 76, specifically assaulted and battered Plaintiff about her body without any reasonable provocation whatsoever or in a defensive manner and committed said assault using excessive force which was unreasonable in light of the facts and circumstances confronting the Defendant, BURNHAM POLICE OFFICER KWIAKOWSKI, Star No. 76, which resulted in severe injuries to the Plaintiff.

6. That said Defendant, BURNHAM POLICE OFFICER KWIAKOWSKI, Star No. 76, assaulted and battered the Plaintiff without any reasonable provocation whatsoever and committed said assault using excessive force after they knew that Plaintiff was not acting in a defensive manner and defendant acts were committed in a reckless and callous disregard for Plaintiff's rights.

7. That Plaintiff was subsequently arrested, handcuffed and charged with resisting a peace officer, without just cause, probable cause or any other reason by Defendant, BURNHAM POLICE OFFICER KWIAKOWSKI, Star No. 76.

8. That as a direct and proximate result of the acts of the Defendant, BURNHAM POLICE OFFICER KWIAKOWSKI, Star No. 76, the Plaintiff suffered great bodily harm. That the assault and arrest of the Plaintiff was committed by the Defendant, BURNHAM POLICE OFFICER KWIAKOWSKI, Star No. 76, under the color of law and knowingly and intentionally violated Plaintiff's Fourth and Fourteenth Amendment rights to be free from excessive force, summary punishment and unreasonable searches and seizures.

WHEREFORE, the Plaintiff, WILLIA BROWN, pray for judgment against the Defendant, BURNHAM POLICE OFFICER KWIAKOWSKI, Star No. 76, in excess of ONE HUNDRED THOUSAND (\$100,000.00) DOLLARS for compensatory and punitive damages, plus costs of this action and also for attorney's fees incurred herein pursuant to this action.

## **COUNT II**

### **INTENTIONAL TORT ASSAULT AND BATTERY**

9. Plaintiff re-alleges and incorporates herein paragraphs 1 through 8 of Count I as if fully set forth herein.

10. That at all times mentioned in this complaint the Plaintiff was in the exercise of due care and caution for her own safety.

11. That it was the duty of the Defendant, BURNHAM POLICE OFFICER KWIAKOWSKI, Star No. 76, herein acting as an agent, servant and/or employee of Defendant, BURNHAM POLICE DEPARTMENT, and VILLAGE OF BURNHAM, a

Body Politic and Corporate, Individually, not to subject the Plaintiff to unreasonable risk of injury.

12. That at the aforesaid time and place, the Defendant, BURNHAM POLICE OFFICER KWIAKOWSKI, Star No. 76, herein acting as an agent, servant and/or employee of Defendant, BURNHAM POLICE DEPARTMENT, and VILLAGE OF BURNHAM, a Body Politic and Corporate, did commit one or more of the following intentional acts:

- a. Intentionally assaulted and battered Plaintiff by throwing the plaintiff to the ground.
- b. Intentionally assaulted and battered the Plaintiff by kicking her about her body and face.

13. That as a direct and proximate result of the aforesaid intentional acts of the Defendant, BURNHAM POLICE OFFICER KWIAKOWSKI, Star No. 76, Individually, and acting as an agent, servant and/or employee of Defendant, BURNHAM POLICE DEPARTMENT, and VILLAGE OF BURNHAM, a Body Politic and Corporate, said Plaintiff was seriously and permanently injured, both internally and externally, specifically, Plaintiff suffered multiple body trauma and mental damage; she suffered great pain and anguish and was hindered and delayed in her occupation and continues in said same condition presently.

WHEREFORE, the Plaintiff, WILLIA BROWN, prays for judgment against the Defendant, BURNHAM POLICE OFFICER KWIAKOWSKI, Star No. 76, Individually, and acting as an agent, servant and/or employee of Defendant, BURNHAM POLICE DEPARTMENT, and VILLAGE OF BURNHAM, a Body Politic and Corporate, in excess of ONE HUNDRED THOUSAND (\$100,000.00) DOLLARS, plus costs of this action.

**COUNT III**

**RESPONDEAT SUPERIOR**

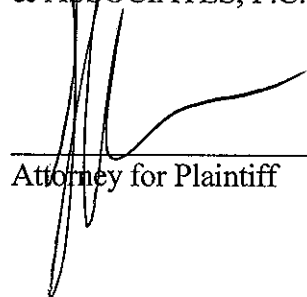
14. Plaintiff re-alleges and incorporates herein paragraphs 1 through 8 of Count II as if fully set forth herein.

15. The actions of the individual Defendant as set forth above and herein were done while the Defendants were within the scope of their employment.

20. Defendant, Village of Burnham, employed said Defendant and is therefore liable under the Doctrine of Respondeat Superior for the state law claims alleged in Count II above.

WHEREFORE, the Plaintiff, WILLIA BROWN, prays for judgment against the Defendants, BURNHAM POLICE OFFICER KWIAKOWSKI, Star No. 76, Individually, and acting as an agent, servant and/or employee of Defendant, BURNHAM POLICE DEPARTMENT, and VILLAGE OF BURNHAM, a Body Politic and Corporate, in excess of ONE HUNDRED THOUSAND (\$100,000.00) DOLLARS, plus costs of this action.

LAW OFFICES OF STEVEN J. MALMAN  
& ASSOCIATES, P.C.



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Attorney for Plaintiff

LAW OFFICES OF STEVEN J. MALMAN  
& ASSOCIATES, P.C.  
205 W. Randolph Street  
Suite 1040  
Chicago, Illinois 60606  
312/629-0099

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

**Civil Cover Sheet**

**DOCKETED**  
OCT 15 2001

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the Northern District of Illinois.

**Plaintiff(s): Willia Brown**

**Defendant(s): Burnham Police Ofc. Kwiakowski,  
#76 Burnham Police Department Village of  
Burnham**

County of Residence: Cook County, Illinois

County of Residence:

Plaintiff's Atty: Law Offices of Steven J.  
Malman  
205 West Randolph, Ste. 1040  
Chicago, IL 60606  
(312) 629-0099

Defendant's Atty:

**01C 7914**

**JUDGE PLUNKETT**

II. Basis of Jurisdiction:

**3. Federal Question (U.S. not a party)**

**MAGISTRATE JUDGE MASON**

III. Citizenship of Principle  
Parties (Diversity Cases Only)

Plaintiff:- N/A  
Defendant:- N/A

IV. Origin :

**1. Original Proceeding**

V. Nature of Suit:

**440 Other Civil Rights**

VI. Cause of Action:

**42 U.S.C. Sections 1983 and 1985**

VII. Requested in Complaint

Class Action: No  
Dollar Demand:  
Jury Demand:

VIII. This case IS NOT a refiling of a previously dismissed case.

**Signature:**

**Date:**

10/9/01

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CLERK  
U.S. DISTRICT COURT

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

In the Matter of

Eastern Division

Willia Brown v. Burnham Police Officer Kwiakowski,  
et al.

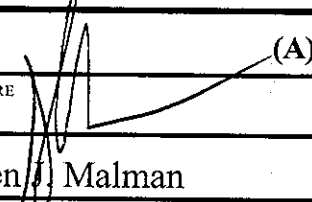
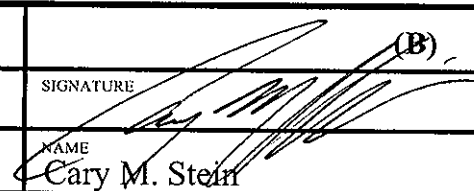
**01C 7914**  
Case Number:

**JUDGE PLUNKETT**

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR:

Plaintiff, Willia Brown

MAGISTRATE JUDGE MASON

<b>(A)</b>		<b>(B)</b>	
SIGNATURE 		SIGNATURE 	
NAME Steven J. Malman		NAME Cary M. Stein	
FIRM Law Offices of Steven J. Malman & Associates		FIRM Law Offices of Steven J. Malman & Associates	
STREET ADDRESS 205 W. Randolph, Ste. 1040		STREET ADDRESS 205 W. Randolph, Ste. 1040	
CITY/STATE/ZIP Chicago, IL 60606		CITY/STATE/ZIP Chicago, IL 60606	
TELEPHONE NUMBER (312) 629-0099		TELEPHONE NUMBER (312) 629-0099	
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TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
<b>(C)</b>		<b>(D)</b>	
SIGNATURE		SIGNATURE	
NAME		NAME	
FIRM		FIRM	
STREET ADDRESS		STREET ADDRESS	
CITY/STATE/ZIP		CITY/STATE/ZIP	
TELEPHONE NUMBER		TELEPHONE NUMBER	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)	
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